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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Rm-8533

In the Matter of)

Waiver of Section 15.119(1)
of the Commission's Rules
Relating to Closed Captioning
Decoders)

PETITION FOR PARTIAL WAIVER

The Consumer Electronics Group of the Electronic Industries Association ("EIA/CEG") hereby petitions the Commission for a partial waiver of Section 15.119 of the Commission's rules.¹ More specifically, EIA/CEG asks the Commission to waive the requirement of Section 15.119(1) that the closed captioning decoders of television receivers be compatible with the copy protection system of Eidak Corporation by January 1, 1995.

As explained by EIA/CEG in the petition for rulemaking that is being filed concurrently with this request for waiver,² Eidak's copy protection system is a technology that has never been, is not now, and is never likely to be in commercial use in a cable system. It is for this reason that EIA/CEG has asked the Commission to amend its rules and relieve manufacturers and purchasers of television receivers of the expense and regulatory burden of a standard that is no longer necessary. EIA/CEG is filing this request for waiver in order to

¹ 47 C.F.R. § 15.119 (1993).

² See Petition for Rulemaking, Amendment of Section 15.119 of the Commission's Rules Relating to Closed Captioning Decoders (filed Sep. 29, 1994). A copy appears as an Appendix to this petition.

maintain the status quo while the Commission is considering the merits of EIA/CEG's petition for rulemaking. Absent a waiver (or prompt action by the Commission in the requested rulemaking), television receiver manufacturers will be required to commence the needless task of modifying their equipment to support Eidak's copy protection system.

I. INTRODUCTION

EIA/CEG is the principal trade association of the consumer electronics industry. EIA/CEG's members provide the American public with televisions, videocassette recorders, video cameras, compact disc players, and a wide variety of other electronic products. EIA/CEG's member companies include most of the major U.S. consumer electronics manufacturers, as well as many smaller companies that design, produce, distribute, sell, import and service electronic products. Many of EIA/CEG's members produce television receivers that are subject to the Commission's rules regarding closed captioning decoders.

Section 15.119(l) of the Commission's rules was originally adopted to permit the use of closed captioning in conjunction with certain cable television signal encryption and copy protection technology. Because of this rule, manufacturers of television receivers are required to include additional features in their closed captioning decoder circuitry to permit compatibility with cable television encryption. More specifically, this section requires the decoders in television receivers to be compatible with the copy protection techniques of Eidak Corporation. Because Eidak's copy protection technology is substantially different from signal scrambling security systems, television receivers must include specific additional capability in order for their closed captioning decoders to be compatible with Eidak's technology. It was in recognition of

this fact that the Commission delayed the implementation of Section 15.119(l) as it applies to Eidak's copy protection system until January 1, 1995.³

Eidak's technology, however, has never been used by any cable system and, given Eidak's poor business prospects, it is unlikely to be used in the future. EIA/CEG therefore asks the Commission to waive the requirement that television receivers be compatible with Eidak's copy protection techniques until such time as the rulemaking requested by EIA/CEG has been concluded. Section 15.119(l), as it applies to Eidak's copy protection technique, currently serves no purpose other than to impose needless costs upon the manufacturers and purchasers of television receivers. Neither manufacturers nor consumers should be burdened with the expense of complying with such a rule, particularly when it may soon be eliminated through the rulemaking process.

II. THE COMMISSION SHOULD WAIVE THE REQUIREMENT OF SECTION 15.119(l) THAT TELEVISION RECEIVERS BE COMPATIBLE WITH EIDAK'S COPY PROTECTION TECHNIQUE UNTIL SUCH TIME AS THE RULEMAKING REQUESTED BY EIA/CEG HAS BEEN CONCLUDED.

Section 15.119(l) of the Commission's rules in pertinent part provides that:

Certain cable television security techniques, such as signal encryption and copy protection, can alter the television signal so that some methods of finding line 21 [the closed captioning line] will not work. In particular, counting of lines or timing from the start of the vertical blanking interval may cause problems. Caption decoding circuitry must function properly when receiving

³ *Amendment of Part 15 of the Commission's Rules to Implement the Provisions of the Television Decoder Circuitry Act of 1990*, 7 FCC Rcd 2279, 2281 (1992).

signals from cable security systems that were designed and marketed prior to April 5, 1991.⁴

This provision was adopted to ensure that television receivers would be able to receive closed captioning signals, even when they are received from a cable system that utilizes signal encryption or copy protection techniques. Because the proprietary copy protection system of Eidak was designed and marketed before the rule's cut-off date, all television receivers marketed in the United States after January 1, 1995 must include the ability to decode closed captioning signals that are encrypted using Eidak's copy protection technique.

To the best of EIA/CEG's knowledge, Eidak's copy protection technology is not currently being used by any cable system in the United States. Eidak itself does not contest this fact.⁵ Indeed, the only apparent commercial use of Eidak's proprietary system is in a satellite network that distributes programming to cable system operators.⁶ Significantly, Eidak's technology is not used by the cable systems that receive programming from this satellite network. Nor does it appear that Eidak's technology will soon be embraced by the cable industry. Eidak Corporation is no longer an active business entity. Under these circumstances, it would be commercially unrealistic to expect cable system operators to adopt a copy protection technique which they have assiduously avoided in the past. In short, Eidak's copy protection technology -- which is not now in use -- is not going to be used in the future.

⁴ 47 C.F.R. § 15.119(l) (1993).

⁵ Letter from Richard S. Leghorn to Richard B. Engelman (June 29, 1994).

⁶ *Id.*

Because Eidak's copy protection technology is not a viable marketplace option, no beneficial purpose is served by requiring television receivers to include closed captioning decoders that are capable of supporting that technology. No harm has come to consumers from the delay in implementing compatibility with Eidak's technology and none will come in the future. In today's environment, such a requirement would impose needless burdens and costs on consumers and the consumer electronics industry without any corresponding benefit.

The consumer electronics industry would be burdened by being required to design closed captioning decoders that support an unused technology. Moreover, the inclusion of such a capability in television receivers would increase the costs of manufacturing. As with all increased production costs, the cost of including this unnecessary requirement will be borne by consumers who purchase television receivers. Further, by needlessly increasing the number of functions that must be included in television receivers, this requirement limits the ability of manufacturers -- which face enormous price and cost competition -- to include other features that are more useful and attractive to consumers.

The Commission's rules should not produce such results. Regulatory requirements that are both costly and unnecessary do not further the public interest. EIA/CEG therefore asks the Commission to waive the requirement that television receivers include closed captioning decoders that are capable of operating with cable signals that use Eidak copy protection technology, until such time as the Commission has concluded the rulemaking requested by EIA/CEG. The grant of the requested waiver will not affect any of the Commission's other closed captioning rules, which EIA/CEG and its member companies continue to support. As the Commission is well aware, the consumer electronics industry has

made great strides in making its products as useful and attractive as possible to hearing-impaired customers. Indeed, the capabilities of the television receivers that are now in the marketplace exceed the requirements of the Commission's rules.


Because Eidak's technology is not currently in use, no one will be adversely affected by a grant of the requested waiver. In fact, the only consequence of granting the requested waiver will be to relieve manufacturers of the needless expense of modifying their equipment to support an unused standard that only serves to increase the cost of television receivers to consumers. Given the January 1, 1995 deadline by which television receivers must support Eidak's technology, EIA/CEG urges the Commission to act promptly on this request for waiver.

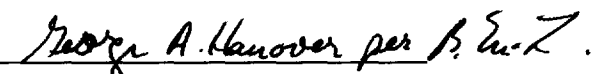
III. CONCLUSION

For all of the reasons set forth above, EIA/CEG urges the Commission to promptly waive the requirement of Section 15.119(l) of its rules that the closed captioning decoders of television receivers be compatible with the copy protection system of Eidak Corporation until such time as the Commission has concluded the rulemaking requested by EIA/CEG.

Respectfully submitted,

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APPENDIX

**Petition for Rulemaking filed by
the Consumer Electronic Group of the
Electronic Industries Association ("EIA/CEG")
on September 29, 1994**